

~~ORIGINATED~~
April 12 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

MONTANA SUPREME COURT

* * * *

STANLEY D. DETHMAN
PETITIONER

VS

STATE OF MONTANA
RESPONDANT

APR 12 2010

NOTICE FILED

NO.

#DA 10-0199

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

PETITION

FOR OUT OF TIME
APPEAL

COMES NOW THE PETITIONER STANLEY D.
(DETHMAN) PROSe, SEEKING A OUT OF TIME
APPEAL, PURSUANT TO M.R.A.P. RULE 4 (6).

IN THE INFREQUENT HAUSH CASE AND UNDER
EXTRAORDINARY CIRCUMSTANCES, AMOUNTING TO A GROSS
MISCARriage OF JUSTICE THE SUPREME COURT
MAY GRANT AN OUT OF TIME APPEAL.

AN OUT OF TIME APPEAL MUST BE REQUESTED
BY VERIFIED PETITION SUPPORTED BY AFFIDAVITS,
RECORDS, AND OTHER EVIDENCE, ESTABLISHING THE
EXISTANCE OF THE EXTRA ORDINARY CIRCUMSTANCES
CLAIMED. EXTRAOORDINARY CIRCUMSTANCES DO NOT
INCLUDE mere mistake, inadvertance OR
EXCUSABLE NEGLECT.

EXTRAORDINARY CIRCUMSTANCES

THESE ARE MY EXTRAORDINARY CIRCUMSTANCES I HAVE BEEN DIAGNOSED AS SCHIZOPHRENIC, AND HAVE SUFFERED FROM THIS DISEASE SINCE I WAS IN THE UNITED STATES MARINE CORPS, SERVICE # 2728933 FROM 4/71 until 5/73, AT WHICH TIME I WAS HONORABLY DISCHARGED.

PRIOR TO MY DISCHARGE I WAS A DISCIPLINARY PROBLEM AND WAS GIVEN A PHYSICIANS REVIEW, WITH DIAGNOSES OF ANTI SOCIAL SCHIZOPHRENICAL PROBLEMS PRIOR TO MY 2ND SPECIAL COURT MARTIAL, AT WHICH I WAS ORDERED ~~RELEASING~~ IMMEDIATELY DISCHARGED FOR THE BENEFIT OF THE UNITED STATES MARINE CORPS AND MYSELF.

POWELL COUNTY LAW ENFORCEMENT PERSONNEL, THE STATE ADULT PAROLE & PROBATION OFFICE AND THE PUBLIC DEFENDERS OFFICE FOR THIS REGION ALL HAD PRIOR KNOWLEDGE THAT I RECEIVED A GOVERNMENT PENSION FOR DISABILITY, AS FAR BACK AS 1989.

I TOLD THE ATTORNEY MY FRIEND PAUL KEVIN VAINIO TO VERIFY THESE WITH ADULT PAROLE & PROBATION DEPT. IN HELENA MT, WITH ROSEBURG VA MEDICAL FACILITY IN ROSEBURG OREGON 1989-91 AND WITH THE SOCIAL SECURITY ADMINISTRATION IN HAVERE MT 10/86 - 4/87.

I ALSO TOLD HIM TO DEPOSE DR CORBIN, REBUTTAL WITNESS FOR THE STATE TESTIFIED AT MY TRIAL SOMETHING TO THE EFFECT THAT I SUFFER FROM A WELL KNOWN DOCUMENTED CASE OF SCHIZOPHRENIA. I AM UNSURE OF THE EXACT WORDING AS THE CASE REPORTER HAS REFUSED MY REQUEST FOR TRANSCRIPTS, WITHOUT SOME OTHER AGENCY OR COURT ORDERING SAME. THIS IS WHY I HAVE TO GET SOMEONE TO FILE SOMETHING IN THE COURTS

STANLEY D. DETTMAN
Stanley D. Dettman

NAME: DETHMAN

TANLEY

AGE: 56

AO# 29422

STAFF MEMBER: Autumn R. Noll, Case Manager

DATE: 8/4/2009

A. HEALTH: A. Observation B. Self-Report C. Verified Medical History D. Medical Exam SCORE H: 2
 (1) No restrictions (2) Some Restrictions (3) Requires frequent medical attention

6/09 OMIS = No Manual Labor

B. ALCOHOL USE: A. Observation B. PSI C. Self-Report D. Initial Drug / Alcohol Assessment SCORE A: 3
 (1) No apparent problems (2) Occasional abuse, meets abuse criteria (3) Frequent abuse, meets dependency criteria

past daily alcohol use

C. OTHER SUBSTANCE ABUSE: A. Observation B. PSI C. Self-Report D. Initial Drug / Alcohol Assessment SCORE O: 3
 (1) No apparent problems (2) Occasional abuse, meets abuse criteria (3) Frequent abuse, meets dependency criteria; I.V. Drug Use Yes No

D. INTELLECTUAL ABILITY: A. Self-Report B. Observation C. Intelligence Testing SCORE I: 1
 (1) Normal intellectual ability (90+) (2) May need some assistance (70-89) (3) Functioning Severely Limited (70)

E. BEHAVIORAL/EMOTIONAL RESPONSES: A. Observation B. PSI C. Psychological/Psychiatric SCORE B: 3
 (1) Exhibits appropriate emotional responses (2) Symptoms limit adequate functioning; may require counseling and/or medication (3) Symptoms prohibit adequate functioning, require major intervention; may require medication or separate housing

MASC= schizophrenic, untreated paranoia, suffers from auditory hallucinations; MSP MH = wellness checks

F. SEXUAL BEHAVIOR: A. Self-Report B. Observation C. PSI D. Psychological/Psychiatric SCORE S: 1
 (1) No apparent dysfunction (2) Situational or minor problems (3) Real or perceived chronic or severe problems and/or qualifies need for SOP

TIER LEVEL

G. EDUCATIONAL STATUS: A. Self-Report B. PSI C. Ed Records D. TABE R M L SCORE E: 1
 (1) Has high school diploma or GED (2) Some deficits but potential (TABE 8.0+/GED) (3) Deficits in Educational needs ABE program (TABE 6.0-7.9 Pre-GED) (4) Major deficits in educational level needs literacy training (TABE 5.9 & below Remedial)

H. VOCATIONAL STATUS: A. Self-Report B. PSI C. Employment Record D. Other SCORE V: 2
 (1) Has sufficient skills to obtain satisfactory employment (2) Minimal Skill level; needs enhancement (3) Virtually unemployable; needs training

disabled; medical and mental health issues would require vocational training

I. JOB RELATED SKILLS: A. Self-Report B. PSI C. Employment Record D. Other SCORE J: 3
 (1) Has sufficient positive work habits to maintain employment (2) Some deficits; needs program to develop positive work habits (3) Work habits insufficient to maintain employment; needs strong work program

medical/mental health issues appear to greatly impact this area negatively

J. LIVING SKILLS: A. Self-Report B. Observation C. PSI D. Psychological/Psychiatric SCORE L: 3
 (1) Presents and expresses self appropriate to social context (2) Has mastered basic survival skills; needs enrichment (3) Lacks skills necessary for social survival

has significant mental health issues; gambling is a problem, reports this is due to mental health; reports he has "good days and bad days"

K. RELATIONSHIPS: A. Observation B. Self-Report C. PSI D. Report from Family SCORE M: 2
 (1) Relatively stable relationships (2) Some disorganization or stress; potential for improvement (3) Major disorganization or stress

not a lot of contact with family, reports this is mostly by his choice

L. COMPANIONS: A. Observation B. Self-Report C. PSI D. Other SCORE C: 2
 (1) No adverse relationship (2) Associations with occasional negative results (3) Associations almost completely negative

report he is "solitary, a loner, almost a hermit"

M. ATTITUDE: (1) Motivated to change (2) Not very receptive to program, but shows some potential (3) Has no motivation at all SCORE A: 1

reports he wants tx; "I want to do treatment, I'm tired of this crap."

ORIGINAL

MONTANA SUPREME COURT

* * * FILED * * *

STANLEY D. DETHMAN

APR 12 2010

NO.

PETITIONER

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

VS.

STATE OF MONTANA
RESPONDANT

PETITION

FOR OUT OF TIME
APPEAL

COMES NOW THE PETITIONER STANLEY D.

(DETHMAN), PRO SE, SEEKING AN OUT OF TIME
APPEAL, PURSUANT TO M.R.A.P. RULE 4(6).

STATEMENT OF THE PROCEEDINGS

ON SEPTEMBER 16, 2008, THE STATE OF MONTANA WAS
GRANTED LEAVE BY THE 3rd JUDICIAL DISTRICT COURT, POWELL
COUNTY, TO FILE AN INFORMATION CHARGING DETHMAN WITH
COUNT I DRIVING UNDER THE INFLUENCE (DUI) 1ST, VIOL.
OF MCA § 61-8-401, COUNT II ASSAULT OF A PEACE
OFFICER, VIOL. MCA § 45-2-210, AND COUNT III
RESISTING ARREST in Viol. MCA 45-7-301.

IT SHOULD BE NOTED, THAT THE CHARGES FILED IN
THIS INFORMATION ARE NOT THE SAME CHARGES FILED
IN THE ORIGINAL COMPLAINT.

BEN(KRAKOWKA) WAS APPOINTED AS COUNSEL.

AT ARRAIGNMENT, SEPTEMBER 16, 2008 THE COURT ENTERED NOT GUILTY PLEAS TO THE CHARGES FOR THE DEFENDANT.

ON FEBRUARY 10 2009, A HEARING WAS HELD, TO DETERMINE IF COMPLAINTS DETHMAN FILED WITH THE COURT, AS TO THE INEFFECTIVENESS, AND THE BIAS OF KRAKOWKA, WERE VALID. KRAKOWKA WAS DISCHARGED AS COUNSEL OF RECORD.

KRAKOWKA WAS THEN RE-APPOINTED AS STAND-BY COUNSEL.

THE TRIAL COMMENCED ON FEBRUARY 17 2009. BEFORE THE TRIAL, DETHMAN PLEAD NO CONTEST TO THE OFFENSE OF DUI, FIRST OFFENSE, A MISDEMEANOR, AND THEN PROCEEDED TO TRIAL ON THE REMAINING CHARGES, WITH KRAKOWKA AS STAND-BY COUNSEL, AND WAS SUBSEQUENTLY FOUND GUILTY, ON THE REMAINING COUNTS.

ON APRIL 14 2009 THE COURT SENTENCED DETHMAN TO A TERM OF COMMITMENT ON COUNT I, DUI FIRST OFFENSE, TO SIXTY (60) DAYS IN THE POWELL COUNTY JAIL, WITH ALL OF THAT, BUT, TEN (10) DAYS SUSPENDED, WITH CREDIT FOR ELEVEN (11) DAYS SERVED. DETHMAN WAS ALSO ORDERED TO PAY \$69⁰⁰ DOLLARS, FINES AND VARIOUS SURCHARGES.

ON COUNT II, ASSAULT OF A PEACE OFFICER

THE COURT SENTENCED DETHMAN, TO THE DEPARTMENT OF CORRECTIONS, FOR A TERM OF TEN(10) YEARS, WITH FIVE(5) OF THOSE YEARS SUSPENDED, UPON CERTAIN CONDITIONS.

ON COUNT III, RESISTING ARREST, DETHMAN WAS SENTENCED TO SIXTY(60) DAYS IN THE POWELL COUNTY JAIL, WITH ALL BUT TEN(10) DAYS SUSPENDED

DETHMAN WAS ORDERED TO PAY 669⁰⁰ DOLLARS RESTITUTION FOR DAMAGES TO OFFICER MICU'S CLOTHING AND EQUIPMENT.

THE SENTENCES PRONOUNCED BY THE COURT AS TO COUNTS I, II, AND III WERE ORDERED TO RUN CONCURRENTLY TO EACH OTHER.

DETHMAN WAS TAKEN INTO CUSTODY AT THAT TIME,

DETHMAN CURRENTLY RESIDES AT THE MONTANA STATE PRISON IN DEER LODGE MT AS HE IS SERVING HIS SENTENCE OF 10 YEARS, WITH 5 SUSPENDED, TO THE MONTANA DEPARTMENT OF CORRECTIONS.

DATED THIS 7th DAY OF April 2010

* Stanley D. Dethman

STANLEY D. DETHMAN PROSE

MONTANA SUPREME COURT

* * * *

STANLEY D. DETHMAN
PETITIONER

NO.

VS:

PETITION

STATE OF MONTANA
RESPONDENT

FOR OUT OF TIME
APPEAL

GROUND AND REASONS:

COMES NOW THE PETITIONER, STANLEY D.
(DETHMAN) PRO se, SEEKING AN OUT OF TIME
APPEAL, PURSUANT TO M.R.A.P. RULE 4(6).

IN THE INFREQUENT HARSH CASE AND UNDER
EXTRAORDINARY CIRCUMSTANCES AMOUNTING TO A GROSS
MISCARRIAGE OF JUSTICE, THE SUPREME COURT MAY
GRANT AN OUT OF TIME APPEAL. DETHMAN PRAYS FOR
ALL RELIEF, ENTITLED, TO BE PROVIDED DETHMAN,
FOR THE FOLLOWING GROUNDS AND REASONS

ON SEPTEMBER 16, 2008 THE (STATE) OF MONTANA WAS
GRANTED LEAVE BY THE 3rd JUDICIAL DISTRICT COURT, POWELL
COUNTY, TO FILE AN INFORMATION CHARGING DETHMAN
WITH COUNT I. DUI FIRST, VIOLATION OF MCA 61-8-401.
COUNT II ASSAULT OF A PEACE OFFICER, VIOLATION MCA
45-2-210. AND COUNT III RESISTING ARREST A

VIOLATION OF MCA § 45-7-301

IT SHOULD BE NOTED, THAT THE CHARGES FILED
IN THIS INFORMATION, WERE NOT THE SAME CHARGES
FILED IN THE ORIGINAL COMPLAINT.

BEN (KRAKOWKA) WAS APPOINTED AS COUNSEL
FOR DETHMAN

AT ARRAIGNMENT, SEPTEMBER 16, 2008, DETHMAN
COMPLAINED, HE WAS NOT TO MAKE ANY IMPORTANT
LEGAL DECISIONS FOR 24 HRS ON THE ADVICE OF HIS DR.

THE COURT ERRORED, USING IT'S OWN JUDGEMENT
WITHOUT A HEARING, FINDING DETHMAN COMPETENT, AND
DID ENTER NOT GUILTY PLEAS ON BEHALF OF THE
DEFENDANT.

KRAKOWKA DID NOT DEFEND DETHMAN'S RIGHTS TO
A HEARING, DESPITE KRAKOWKA'S AND THE PUBLIC
DEFENDERS OFFICE'S PRIOR KNOWLEDGE OF DETHMAN'S
SCHIZOPHRENIA.

NONETHELESS DETHMAN FILED A SERIES OF
COMPLAINTS WITH THE PUBLIC DEFENDERS OFFICE
COMPLAINING OF KRAKOWKA'S INEFFECTIVENESS FROM
OCTOBER 2008 THRU FEBRUARY 2009.

DETHMAN EVEN HAD A CONSULTATION WITH A
PRIVATE ATTORNEY, CHRIS MILLER, OF DEER LODGE MT.
ABOUT THE PROBLEMS THAT DETHMAN WAS

HAVING WITH KRAKOWKA, THIS INITIAL CONSULT
TOOK PLACE in OCTOBER OF 2008.

AFTER REQUESTING APPOINTMENT OF NEW COUNSEL FROM KRAKOWKA'S SUPERIOR, SHERRY P. STAEDLER, TO NO AVAIL DETHMAN COMPLAINED TO SHERRY P. STAEDLER'S SUPERIOR RANDI HOOD, WITHOUT RESULTS.

FINALLY IN AN ACT OF DESPERATION, DETHMAN FILED A COMPLAINT, BY LETTER, DIRECTLY WITH THE COURT.

DURING THE SERIES OF COMPLAINTS FILED, DETHMAN REPEATEDLY ASKS FOR THE APPOINTMENT OF NEW COUNSEL, CLEARLY INDICATING THAT DETHMAN WANTED TO BE REPRESENTED BY COUNSEL, DURING THE CONTINUING PROCESS OF THE CRIMINAL PROCEEDINGS AGAINST HIM.

THE COURT CONDUCTED A GALLAGHER HEARING ON FEBRUARY 10, 2009, TO INQUIRE INTO THE SUBSTANCE OF DETHMAN'S COMPLAINT OF INEFFECTIVENESS OF KRAKOWKA.

DURING THE INQUIRY, THE COURT ASKED IF DETHMAN WAS SURE HE WANTED TO REMOVE KRAKOWKA FROM THE CASE, TO WHICH DETHMAN REPLIED "YES SIR!"

AFTER A LENGTHY DISCUSSION OF WHY MR DETHMAN WANTED TO DISCHARGE KRAKOWKA FROM THE CASE, THE JUDGE RAYMOND J. DAYTON STATED "SO YOU DO WANT TO GO TO TRIAL WITH OUT AN ATTORNEY, TO

WHICH DETHMAN REPLIED "NO SIR!"

AFTER FURTHER INQUIRY, THE COURT ADMONISHED
DETHMAN FOR PROCEEDING TO TRIAL WITHOUT COUNSEL.

THE COURT THEN ORDERED KRAKOWKA DIS-
CHARGED AS COUNSEL. FROM THAT POINT ON,
DETHMAN WAS WITHOUT COUNSEL, DESPITE
DETHMAN'S REPEATED REQUESTS, FOR APPOINT-
MENT OF NEW COUNSEL. DURING HIS SERIES
OF COMPLAINTS FROM OCT 2008 UNTIL THE HEARING
ON FEB 2009.

AT THE GALLEGEV HEARING, AFTER LENGTHY INQUIRY
AND DISCHARGE OF KRAKOWKA AS DEFENSE
COUNSEL THE COURT THEN ORDERED KRAKOWKA
REAPPOINTED AS STAND BY COUNSEL AFTER
DETHMAN'S COMPLAINTS OF BIAS AND INEFFECT-
IVENESS.

THE COURT THEN ORDERED THE COMMENCEMENT OF THE
TRIAL ON THE PREVIOUSLY DESIGNATED TRIAL DATE, ONE
WEEK AWAY, WITHOUT CONTINUENCE FOR PRO SE
CASE PREPARATION. A GROSS MISCARRIAGE OF
JUSTICE. THIS WAS NOT INADVERTANCE, NEGLECT
OR MERE MISTAKE.

THIS WAS INTENTIONAL JUDICIAL MISCONDUCT,
AS, THE JUDICIAL CANON 35(3) SPECIFICALLY
STATES, (CONSTITUTIONAL OBLIGATIONS) IT IS THE
DUTY OF ALL JUDGES TO SUPPORT THE FEDERAL

CONSTITUTION, AND THAT OF THIS STATE. IN SO DOING, THEY SHOULD FEARLESSLY OBSERVE AND APPLY FUNDAMENTAL LIMITATIONS AND GUARANTEES.

CRIMINAL DEFENDANTS ARE ENTITLED TO THE ASSISTANCE OF COUNSEL AT TRIAL. THIS RIGHT EXISTS UNDER BOTH ART. II § 24 MT. STATE CONSTITUTION AS WELL AS THE 6TH AMENDMENT TO THE US CONSTITUTION.

THE MONTANA SUPREME COURT HAS RECOGNIZED THAT RIGHT TO COUNSEL, AS BROADER THAN THE RIGHT AFFORDED BY THE U.S. CONSTITUTION. SEE STATE V SPRANG, 2002 MT 120 ¶ 22, 48 P.3d 727 ¶ 22.

THE STATE AND THE COURT HAS NO VALID REASON FOR INTENTIONALLY VIOLATING THOSE CONSTITUTIONAL GUARANTEES, BY FORCING DETHMAN TO TRIAL WITHOUT THE ASSISTANCE OF COUNSEL, DESPITE DETHMANS COMPLAINTS AND REPEATED REQUESTS, FOR APPOINTMENT OF NEW COUNSEL.

IN EVITS V. LUCEY, 469 U.S. 387, 105 S. CT. 830, 83 ED. 2d 821 (1985)

(HOLDING THAT THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL EXTENDS TO THE FIRST APPEAL AS OF RIGHT, JUSTICE BRENNAN WROTE FOR THE 7-2 MAJORITY; IN BRINGING AN APPEAL AS OF RIGHT FROM HIS CONVICTION, A CRIMINAL DEFENDANT IS ATTEMPTING TO DEMONSTRATE THAT THE CONVICTION, AND THE

CONSEQUENT DRASTIC LOSS OF LIBERTY, IS UNLAWFUL.
TO PROSECUTE THE APPEAL, A CRIMINAL Appellant must
FACE, AN ADVERSARY PROCEEDING, THAT, LIKE A TRIAL,
IS GOVERNED BY INTRICATE RULES, THAT TO A LAY-
PERSON WOULD BE HOPELESSLY FORBIDDING.) AT 396
(FOOTNOTE OMITTED).

Likewise DETHMAN WAS PROCEDURALLY
BARRED FROM HIS U.S. CONST 14TH AMEND. RIGHT TO
DUE PROCESS OF LAW AND A FAIR TRIAL, BY BEING
FORCED BY THE COURT, TO TRIAL WITH OUT COUNSEL,
AGAINST HIS WISHES.

IN STATE V SWAN (CITATION OMITTED) THE MT
SUPREME COURT HELD, THAT, IF DURING THE COURSE OF A
GALLAGHER HEARING, THE DEFENDANT'S WAIVER OF
COUNSEL IS NOT UNEQUIVOCAL, THE COURT MUST
HAVE NEW COUNSEL APPOINTED.

CLEARLY IN DETHMAN'S CASE COUNSEL WAS
NOT APPOINTED AS THE JUDGE IN THE CASE RAYMOND
DAYTON ORDERED THE PUBLIC DEFENDERS OFFICE TO NOT
APPOINT NEW COUNSEL, AFTER CONDUCTING A HEARING
AND DISCHARGING KRAKOWKA AS COUNSEL.

THE ISSUE OF WHETHER OR NOT STANDBY COUNSEL
MEETS THE STANDARD OF EFFECTIVE ASSISTANCE OF
COUNSEL UNDER STATE AND FEDERAL CONSTITUTIONAL
GUARANTEES HAS BEEN ARGUED IN BOTH, THE US
SUPREME COURT AND THE MT STATE SUPREME COURT.

I BOTH COURTS HAVE RULED THAT STAND BY
COUNSEL DOES NOT MEET THE REQUIREMENTS OF
THE EFFECTIVE ASSISTANCE OF COUNSEL (CITATIONS OMISSION)

DETHMAN WAS PURPOSEFULLY FORCED TO TRIAL
WITHOUT COUNSEL, DESPITE HIS REPEATED COMPLAINTS
AND REQUESTS THAT NEW COUNSEL BE APPOINTED.

NEVERTHELESS, ON FEBRUARY 17 2009, JUST 7 DAYS
AFTER THE GALLAGHER HEARING, WITHOUT SUFFICIENT
TIME FOR DETHMAN TO PREPARE HIS CASE FOR TRIAL,
DETHMAN WAS FORCED TO TRIAL BY THE COURT.

HOWEVER, BEFORE SUCH, DETHMAN PLEAD NO
CONTEST TO THE CHARGED OFFENSE OF DUI FIRST
A MISDEMEANOR, AND THEN PROCEEDED TO TRIAL
ON THE REMAINING CHARGES.

ON FEBRUARY 18, 2009 DETHMAN WAS FOUND
GUILTY OF THE REMAINING CHARGES BY A JURY OF HIS
PEERS.

DURING THE TRIAL, WHEN DETHMAN OBJECTED,
TO THE PROSECUTION'S FIRST WITNESS CALLING DETHMAN
"SIDEWINDER" THE COURT OVERRULLED THE OBJECTION.
THEREBY, CAUSING PREJUDICE OF THE JURY. SAID
OVERRULING WAS NOT ACCIDENTAL NOR UNINTENTIONAL.

DURING THE PROSECUTION'S FINAL ADDRESS TO
THE JURY, THE STATE DID INTRODUCE DETHMAN'S
PRIOR PLEADING TO THE DUI CHARGE, IN ORDER
TO IMPROPERLY PREJUDICE THE JURY MEMBERS.

ON APRIL 14, 2009 THE COURT SENTENCED DETHMAN. WHEN THE COURT ASKED DETHMAN IF HE HAD ANYTHING TO SAY BEFORE HE WAS SENTENCED DETHMAN REPLIED "YES SIR." AFTER A BRIEF DISCUSSION, THE COURT WAS INFORMED, THAT THE FELONY CHARGE, OF CONCEALING STOLEN GOODS, ON THE PRE-SENTENCE REPORT WAS WRONG THAT SAID CHARGES HAD BEEN DISMISSED. THE JUDGE REPLIED WITH SOMETHING TO THE EFFECT OF, "THAT DOESN'T MATTER. I'VE ALREADY DECIDED WHAT I AM GOING TO SENTENCE YOU TO!" THAT STATEMENT CLEARLY SHOWED JUDICIAL PREJUDICE. THAT IS TO SAY; TO NOT DEPEND ON THE ACCURACY OF THE PRESENTENCE REPORT FOR THE PURPOSE OF SENTENCING.

THE COURT SENTENCED DETHMAN ON COUNT II, ASSAULT ON A PEACE OFFICER, TO THE MONTANA DEPARTMENT OF CORRECTIONS FOR A TERM OF TEN YEARS(10), THE MAXIMUM ALLOWABLE BY LAW, WITH (5) FIVE OF THOSE YEARS SUSPENDED UPON CERTAIN CONDITIONS. THE COURT SENTENCED DETHMAN ON COUNT I DUI FIRST TO A TERM OF COMMITMENT TO THE POWELL COUNTY JAIL FOR A PERIOD OF (60) SIXTY DAYS, WITH ALL OF THAT SUSPENDED BUT (10) TEN DAYS CREDIT FOR TIME SERVED.

DETHMAN WAS ALSO FINED 500⁰⁰ DOLLARS AND ORDERED TO PAY VARIOUS SURCHARGES.

ON COUNT III, RESISTING ARREST, HE WAS SENTENCED TO (60) SIXTY DAYS IN THE POWELL COUNTY JAIL, WITH ALL BUT (10) TEN DAYS SUSPENDED.

DETHMAN WAS ALSO ORDERED TO PAY RESTITUTION FOR DAMAGES TO OFFICER MICKY'S CLOTHING, INCLUDING BOOTS THAT WERE NOT PHOTOGRAPHED NOR ENTERED INTO EVIDENCE, AND FOR DAMAGED EQUIPMENT, TO THE AMOUNT OF 669⁰⁰ DOLLARS.

THE SENTENCES PRONOUNCED BY THE COURT, AS TO COUNTS I, II, AND III WERE ORDERED TO RUN CONCURRENTLY TO EACH OTHER.

DETHMAN WAS TAKEN INTO CUSTODY AT THAT TIME.

DETHMAN THEN WROTE THE PUBLIC DEFENDERS OFFICE, REQUESTING THE APPOINTMENT OF COUNSEL, FOR THE PURPOSE OF APPEAL.

DETHMAN WAS THEN ADVISED TO FILE THE APPEAL HIMSELF AND THEN REQUEST THE APPOINTMENT OF APPELLATE COUNSEL AS HE HAD DISCHARGED CURRENT COUNSEL BEN KRAKOWKA.

DETHMAN'S DISWAIVER OF COUNSEL, TO WRIT: BEN KRAKOWKA, WAS NOT UNEQUIVOCAL,

AS DETHMAN HAS REPEATEDLY REQUESTED THE
APPOINTMENT OF NEW COUNSEL DURING A SERIES OF
COMPLAINTS AND DID NOT WISH TO GO TO TRIAL
WITHOUT REPRESENTATION, AS EVIDENCED BY THE
RECORD OF THE GALLAGHER HEARING HELD ON 2/10/09.

FORCING DETHMAN AGAINST HIS WISHES, WITHOUT
ASSISTANCE OF COUNSEL, TO TRIAL, AND TO FILE AN APPEAL,
BOTH, ADVERSARIAL PROCEEDINGS, WITH INTRICATE
RULES, THAT TO A LAYPERSON WOULD BE HOPELESSLY
FOREBODING, EFFECTIVELY BARRED DETHMAN
FROM SEEKING REMEDY. GRASS MISCARRIAGE OF
JUSTICE!

NONETHELESS, DETHMAN THEN TRIED TO FILE AN
APPEAL WITH THE SUPREME COURT, PRO SE.

THE CLERK OF THE MONTANA SUPREME COURT
RETURNED DETHMAN'S DOCUMENTS AS REFERENCE
DEFICIENT AND WITHOUT PROPER CERTIFICATION.

THE DISTRICT COURT CLERK RETURNED DETHMAN'S
NOTICE OF APPEAL AS UNFILEABLE WITH THE DIST-
RICT COURT, AND BOTH COURTS DID NOT FILE DETHMAN'S
PAUPERIS PLEADINGS.

DETHMAN DID FILE HIS MOTION FOR APPEAL
WITH BOTH ATTORNEY'S OF RECORD, ALONG
WITH (7) SEVEN COPIES FOR THE SUPREME COURT
JUSTICES. ALL OF THIS WAS DONE WITHIN
THE TIME LIMITATIONS PRESCRIBED BY MR.RAPP.

AFTER DETHMAN'S FAILED ATTEMPT AT
FILING AN APPEAL, DETHMAN WAS TRANSFERRED
FROM THE MISSOULA DETENTION CENTER (MASC) TO
THE MONTANA STATE PRISON IN DEER LODGE MT.
WHERE DETHMAN IS CURRENTLY INCARCERATED.

DETHMAN THEN COMPLAINED DIRECTLY TO
THE MONTANA GOVERNOR'S OFFICE IN HELENA
MT.

AFTER A BRIEF PERIOD OF TIME, THE
GOVERNOR'S OFFICE RESPONDED THAT THEY
COULD NOT HELP, THAT ANY FUTURE CORRESPONDENCE
WITH SAID OFFICE MUST BE DIRECTED TO THE
OFFICE OF THE GOVERNOR'S LEGAL DEPT., AND
THAT DETHMAN SHOULD TRY TO OBTAIN PRIVATE
LEGAL COUNSEL.

DETHMAN THEN SOUGHT LEGAL REPRESENTATION
FROM KEVIN VAINIO AN ATTORNEY FROM BUTTE
MT. IN SEPTEMBER OF 2009.

MR. VAINIO AGREED, IN OCTOBER 2009 FOR 2400⁰⁰
DOLLARS, TO FILE A PETITION FOR OUT OF TIME APPEAL
WITH THE MONTANA SUPREME COURT FOR DETHMAN.

AFTER A COUPLE OF MONTHS, DURING WHICH
VAINIO REFUSED TO RESPOND TO SEVERAL LETTERS
AND PHONE CALLS BY DETHMAN, VAINIO RESPONDED 12/8/09
THAT VAINIO WOULD FINISH DETHMAN'S DOCUMENTS BY

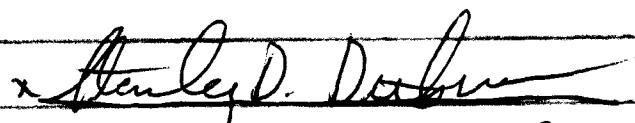
THE END OF THAT WEEK, VAINIO DID NOT.

VAINIO WROTE DETHMAN. AFTER SEVERAL INQUIRIES WENT UNANSWERED AGAIN, THAT VAINIO WOULD FINALIZE DETHMAN PAPERWORK ON JANUARY 1ST 2010. AFTER VAINIO ADVISED DETHMAN THAT POWELL COUNTY PROSECUTOR LEWIS K. SMITH WOULD OPPOSE DETHMAN'S PETITION FOR OUT OF TIME APPEAL, BY VAINIO. DETHMAN WAITED FOR THE WRITTEN RESPONSE FROM MR(SMITH). WHEN DETHMAN RECEIVED NO RESPONSE FROM SMITH, HE AGAIN ATTEMPTED TO CONTACT VAINIO BY LETTER. WHEN VAINIO FAILED TO RESPOND, DETHMAN WROTE A LETTER TO RONALD(WATERMAN), AN ATTORNEY FROM HELENA, MT. WATERMAN ADVISED DETHMAN TO REQUEST COPIES OF THE PROMISED OUT OF TIME APPEAL PETITION AND BRIEFS FROM VAINIO AND IF VAINIO DID NOT PRODUCE SAID PAPERS, DETHMAN SHOULD FILE A COMPLAINT WITH THE MONTANA SUPREME COURT AND WITH THE COMMISSION ON PRACTICE. DETHMAN DID ATTEMPT TO CONTACT VAINIO BY LETTER, (2) TWO TIMES WITHOUT RESPONSE. DETHMAN FILED A COMPLAINT WITH THE SUPREME COURT CLERK AND WAS DIRECTED TO FILE THE

COMPLAINT WITH OFFICE OF DISCIPLINARY
COUNSEL FOR THE STATE OF MONTANA, PO BOX
1099, HELENA, MT. 59624-1099. DETHMAN D.D. File
SAID COMPLAINT THAT VAINIO D.D. NOT
PRODUCE THE PETITION FOR OUT OF TIME APPEAL,
THAT DETHMAN HAD ARRANGED FOR PAYMENT,
OF A TOTAL OF 2400⁰⁰ DOLLARS FOR DETHMAN
HAS NOW BEEN INCARCERATED AN ADDITIONAL
6 MONTHS WITH OUT REMEDY BECAUSE OF
VAINIO'S FAILURE TO PRODUCE THE PROMISED
PETITION FOR OUT OF TIME APPEAL

FOR THE ABOVE MENTIONED REASON, CAUSES
AND GROUNDS DETHMAN REQUESTS THAT THE
MONTANA SUPREME COURT GRANT DETHMAN'S
PRO SE PETITION FOR OUT OF TIME APPEAL AND
ORDER ALL RELIEF DETHMAN IS ENTITLED
TO, TO BE PROVIDED DETHMAN

DATED THIS 7th DAY OF April 2010



STANLEY D. DETHMAN, PRO SE

PRAYER FOR RELIEF

DETHMAN PRAYS THIS COURT GRANT HIS PETITION
FOR OUT OF TIME APPEAL FOR THE AFORE
MENTIONED GROUND AND REASONS

THAT THE COURT VACATE THE SENTENCES OF THE
FINAL JUDGEMENT AND ORDER OF THE 3rd JUDICIAL
DISTRICT COURT, POWELL COUNTY, CAUSE NO. DC-B-67
AND REMAND THIS MATTER BACK TO THE DISTRICT
COURT WITH THE DIRECTIONS TO REENTER THE
SENTENCING JUDGEMENT AND ORDER INTO THE RECORD
FOR THE PURPOSE OF APPEAL WITHIN THE TIME LIMITS
OF THE M.R.A.P. RULE 4(6)

THAT THIS COURT ORDER APPELLATE COUNSEL BE
APPOINTED

THAT THIS COURT ORDER THE TRANSCRIPTS OF ALL OF
THE AFOREMENTIONED PROCEEDINGS BE PRODUCED
AND PRESENTED AND ALL OTHER REMEDY AVAILABLE
TO THE DEFENDANT BE PROVIDED

DATED THIS 7th DAY OF APRIL 2010

* Stanley P. Dethman

STANLEY P. DETHMAN, Prose

VERIFICATION

STANLEY D. DETHMAN
PETITIONER

CAUSE NO.

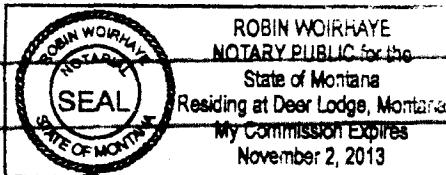
VS

STATE OF MONTANA
RESPONDENT

I STANLEY D. DETHMAN DO STATE AS
Follows,

I HAVE READ THE ABOVE AND FOREGOING
PETITION FOR OUT OF TIME APPEAL, AND KNOW THE
CONTENTS THEREOF, AND THE SAME IS TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE
INFORMATION AND BELIEF.

DATED THIS 7th DAY OF April 2010



* Stanley D. Dethman

STANLEY D. DETHMAN PROSE

Robin Woirhaye
4-7-10